

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOHN AYANBADEJO, <i>et al.</i> ,	§	
Petitioners,	§	
	§	
v.	§	CIVIL ACTION NO. H-06-1177
	§	
JANET NAPOLITANO, <i>et al.</i> ,	§	
Respondents.	§	

**MEMORANDUM AND ORDER**

Plaintiff John Ayanbadejo filed a “Motion to Exceed Page Limitations” [Doc. # 98] in connection with a proposed “Motion for Relief From Judgment Subject to Equitable Tolling And/Or Sua Sponte Authority.” Noting that summary judgment was entered in favor of Defendants in this case in 2009, and that the Court’s prior ruling had been final and unappealable for two years, the Court denied the Motion to Exceed Page Limitations. Nonetheless, Plaintiff filed a Motion for Relief from Judgment that exceeds the Court’s limitation of 25 pages. As a result, the Court strikes the Motion for Relief from Judgment.

Additionally, the Court concludes that the Motion for Relief from Judgment is without merit. To the extent the Motion is filed pursuant to Rule 60(b)(1)-(3), it must be filed “no more than a year after the entry of the judgment” from which relief is sought. Plaintiff filed his Motion for Relief from Judgment well more than one year

after entry of the Court's 2009 Memorandum and Order. As a result, to the extent the Motion for Relief from Judgment is based on these three grounds, it is denied as untimely.

To the extent the Motion is filed pursuant to Rule 60(b)(5)-(6), it must be filed within a reasonable time. Plaintiff did not file his motion until more than four years after entry of judgment, and two years after denial of his petition for a writ of certiorari. As a result, to the extent the Motion for Relief from Judgment is based on these two grounds, it is denied as untimely.


Plaintiff seeks relief pursuant to Rule 60(b)(4), arguing that the Court's prior judgment "is void because the Court acted inconsistently with the due process of law." Specifically, Plaintiff argues that he was deprived of due process because his attorney failed to file a timely notice of appeal and because the Court granted summary judgment notwithstanding Ayanbadejo's request for trial by jury. Neither of these arguments, however, renders the Court's prior judgment void. Consequently, Plaintiff is not entitled to relief from judgment pursuant to Rule 60(b)(4).

Based on the foregoing, it is hereby

**ORDERED** that Plaintiff's Motion for Relief from Judgment [Doc. # 100] is **STRICKEN**. Alternatively, it is hereby

**ORDERED** that Plaintiff's Motion for Relief from Judgment [Doc. # 100] is  
**DENIED.**

SIGNED at Houston, Texas, this 6<sup>th</sup> day of **January, 2014.**

  
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Nancy F. Atlas  
United States District Judge